

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2349 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

=====

1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

CHANDIBEN R.RANA - MOTHER IN LAW OF DETENU RAMIO T PATIL

Versus

COMMISSIONER OF POLICE SURAT

Appearance:

MR NM KAPADIA for Petitioner

MR. H.H. PATEL, AGP, for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 14/12/1999

ORAL JUDGEMENT

The petitioner is the mother-in-law of detenu Ramio @ Ramesh Tarachand Patil who has been detained by virtue of order passed by the Commissioner of Police, Surat City, Surat on 17.3.1999 in exercise of power under Section 3(1) of the provisions of the Gujarat Prevention of Anti Social Activities Act, 1985 (hereinafter referred to as 'the PASA Act').

2. The detaining authority has taken into consideration two cases registered against the detenu and two statements of anonymous witnesses indicating involvement of detenu in activities which are detrimental to the public order. The detaining authority exercised power under Section 9(2) of the PASA Act and after considering less drastic remedy in form of proceedings under Section 56, 57(B) and (C) of the Bombay Police Act came to the conclusion that resorting to the provisions of PASA Act is the only remedy available for immediately preventing the petitioner from pursuing his illegal activities.

3. The petitioner challenges the order of detention on a short ground namely that the detenu knew only two languages namely, Marathi and Hindi. The detenu had requested for translated version of the paper book either in Marathi or in Hindi. The same has not been supplied which has resulted into infringement of the right of the detenu of making an effective representation. The petition may therefore be allowed.

4. Mr. Kapadia appearing for the petitioner has reiterated the grounds stated above and has restricted his case only to these grounds. He submitted that if documents are not supplied to the detenu in the language known to her she would not be able to make an effective representation. This aspect has not been considered by the authorities concerned. The detention is therefore bad and the petition may be allowed and the detention order may be set aside.

5. Mr. H.H. Patel, learned A.G.P. appearing for the respondents concedes to the factual aspect that the translated version of the paper book either in Hindi or Marathi has not been supplied to the detenu. He also concedes that the same were demanded by a representation.

6. It may be noted that no affidavit is filed either on behalf of the Government or on behalf of the detaining authority and therefore this is a clear case of denial of right of the detenu of making an effective representation. The petition deserves to be allowed on this ground alone.

7. The petition is allowed. The order of detention dated 17.3.1999 passed by the Police Commissioner, Surat City, is quashed and set aside. The detenu be set at liberty forthwith if not required in any other case. Rule is made absolute. No order as to costs.

(A.L. DAVE, J)

[pkn]